

PROSKAUER ROSE LLP

1585 Broadway
New York, NY 10036-8299
Telephone 212.969.3000
Fax 212.969.2900

BOCA RATON
BOSTON
LONDON
LOS ANGELES
NEW ORLEANS
NEWARK
PARIS
SÃO PAULO
WASHINGTON

Elise M. Bloom
Member of the Firm

Direct Dial 212.969.3410
ebloom@proskauer.com

November 20, 2007

By E-Filing

Honorable Arlene R. Lindsay
United States Magistrate Judge
Long Island Federal Courthouse
814 Federal Plaza
Central Islip, New York 11722-4451

Re: Summa v. Hofstra University - 07 cv 3307 (DRH)(ARL)

Dear Judge Lindsay:

We represent Hofstra University (“Hofstra”) in the above referenced matter. We write in response to Plaintiffs’ counsel’s November 9, 2007 letter requesting a discovery conference in the above-referenced matter. For the reasons set forth herein, Hofstra respectfully requests that a conference not be scheduled until Hofstra’s motion to dismiss is decided by the Court.

Plaintiffs herein have alleged claims under the federal Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b) (Counts I and II); and the New York Labor Law Section 663, 12 N.Y.C.R.R. § 142-2.1 and 12 N.Y.C.R.R. § 142-2.2 (“NYCRR”) (Counts III and IV). Hofstra is seeking to dismiss Plaintiffs’ claims under the New York Labor Law (Counts III and IV). By Order dated November 7, 2007, Judge Dennis R. Hurley set a briefing schedule for Hofstra’s motion to dismiss Plaintiffs’ New York Labor Law claims (Claims III and IV).

Hofstra submits that Plaintiffs’ request to set a conference pursuant to FED. R. CIV. P. 16 and commence discovery at this point in time should be denied for a number of reasons. First, Hofstra’s pending motion to dismiss could significantly impact the scope of discovery. Second, Plaintiffs’ collective action under the FLSA will not be “compromised” by a delay in discovery since any potential opt-ins maintain a right to bring their own claims at any point, regardless of this action. Finally, Plaintiffs’ allegation that Hofstra failed to “post adequate notice of rights under the FLSA” and thus, a six year class period should apply to their FLSA claims could not be further from the truth. Hofstra posted and continues to post all applicable federal and state notices, including all FLSA postings. For all these reasons, there should be no concern about

PROSKAUER ROSE LLP

Magistrate Judge Arlene R. Lindsay

November 20, 2007

Page 2

any information growing stale while the parties await Judge Hurley's ruling on Hofstra's motion to dismiss. Additionally, the interests of judicial economy and economy to the Parties would be better served by waiting until Judge Hurley rules on Hofstra's motion to avoid unnecessary and costly discovery.

For these reasons, we respectfully request that Your Honor not order a Rule 16 conference until Judge Hurley rules on Hofstra's motion to dismiss.

Respectfully submitted,



Elise M. Bloom

cc: Douglas Wigdor, Esq. (By ECF)